IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4977 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KOLI UKA MALDEBHAI MAVADIYA THROUGH P.O.A. HOLDER

Versus

VASHRAMBHAI MALDEBHAIM MAVADIYA

Appearance:

1. Special Civil Application No. 4977 of 2004

MR AJ SHASTRI for Petitioner No. 1

MR YOGESH S LAKHANI for Respondent No. 1-4

NOTICE SERVED for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 06/10/2004

ORAL JUDGEMENT

1. Rule. Mr.V G Dave learned advocate for Mr.Y S Lakhani waives service of rule on behalf of the respondents. With the consent of learned counsel for the parties, the matter is finally heard today.

2. The petitioner herein has preferred this petiton

in order to challenge the order dated 18/09/2003 passed by the learned Assistant Judge, Porbandar, whereby, the appeal of the petitioner was dismissed and the order passed by the trial Court below exh.5 in Regular Civil Suit No.423 of 2002 dated 24/12/2002 was confirmed.

3. While issuing notice to the respondents, this Court had directed the parties to the suit to maintain status quo with respect to the disputed strip of land. Having heard the learned counsel for the parties and on going through the averments made in the petition, I am of the opinion that status quo as on that day i.e. when the notice was issued, is required to be maintained by both the parties, till the suit is finally disposed of. This Court has confirmed the order of status quo, only with a view to ensure that no harm is caused to the interest of the petitioner.

4. However, it will be open for the petitioner to make an application before the trial Court for expediting the hearing of the suit in question. If such an application is made by the petitioner, the trial Court concerned shall dispose of the said suit, as expeditiously as possible. The trial Court shall not be influenced by the aforesaid order of this Court confirming status quo. It is made clear that this Court has passed the above order, without entering into the merits of the case.

5. With the above observations and direction, the petition is disposed of. Rule is discharged. Parties are directed to maintain status quo till the final disposal of the suit.

(K. S. Jhaveri, J.)
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